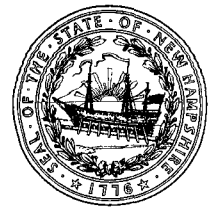




The State of New Hampshire  
**Department of Environmental Services**



**Michael P. Nolin**  
Commissioner

Dale Smith  
P.O. Box 326  
Stoddard, NH 03464-0326

Re: Mill Village Country Store,  
984 Route 123, Stoddard, NH  
UST Permit #0-113473

**ADMINISTRATIVE ORDER**  
**No. WMD 06-006**

April 11, 2006

**A. INTRODUCTION**

This Administrative Order is issued by the Department of Environmental Services, Waste Management Division to Dale Smith pursuant to RSA 146-C. This Administrative Order is effective upon issuance.

**B. PARTIES**

1. The Department of Environmental Services, Waste Management Division ("DES"), is a duly constituted administrative agency of the State of New Hampshire, having its principal office at 29 Hazen Drive, Concord, New Hampshire.
2. Dale Smith is an individual having a mailing address of P.O. Box 326, Stoddard, New Hampshire 03464-0326.

**C. STATEMENTS OF FACTS AND LAW**

1. RSA 146-C authorizes the Department of Environmental Services to regulate the installation, maintenance, operation, and closure of underground storage facilities. Pursuant to RSA 146-C:9, the Commissioner of DES has adopted New Hampshire Administrative Rules Env-Wm 1401 to set forth the requirements for underground storage facilities by "establishing criteria for registration and permitting, and standards for design, installation, operation, maintenance, and monitoring of such facilities."
2. Dale Smith is the registered facility owner of one underground storage tank ("UST") at the Mill Village Country Store facility ("the Facility"), further identified as UST #0-113473, located on real property at 984 Route 123, Stoddard, NH ("the Property").
3. The UST system is subject to the requirements of RSA 146-C and Env-Wm 1401.
4. On August 25, 2005, a DES inspector conducted a compliance inspection at the Facility and noted compliance deficiencies which were identified in a report (the "Report") issued to the Facility representative at the time of the inspection.

5. The Report notified the Facility that compliance was to be achieved within 30 days of the date of the inspection and verification of compliance submitted to DES within 45 days of the date of the inspection. Acknowledgement of receipt of the Report was signed by Dale Smith on behalf of the Facility.

6. The Report also included a UST Facility Summary of Deficiencies identified at the time of the inspection. Among those deficiencies identified, DES has not been notified that the following have been corrected within 45 days after the inspection was performed:

- a. The leak monitoring equipment for Tank 1 was not continuously operating and the annual test had not been performed.

7. Env-Wm 1401.31(a) requires leak monitoring equipment and devices to be maintained in good working order at all times to continuously perform their original design function and shall be tested annually for proper operation in accordance with the manufacturer's requirements.

#### **D. DETERMINATION OF VIOLATIONS**

1. Dale Smith has violated Env-Wm 1401.31(a) by failing to maintain leak monitoring equipment in good working order at all times to continuously perform their original design function for Tank1 and by failing to perform the annual test for proper operation.

#### **E. ORDER**

Based on the above findings and determinations, DES hereby orders Dale Smith as follows:

1. **Within 30 days** of the date of this Administrative Order, compliance with the rule alleged to have been violated as listed above must be achieved or the UST must be closed in accordance with Env-Wm 1401.18.
2. Send correspondence, data, reports, and other submissions made in connection with this Administrative Order, **other than appeals**, to DES as follows:

Lynn A. Woodard, P.E., Supervisor, Oil Compliance Section  
DES Waste Management Division  
P.O. Box 95  
Concord, NH 03302-0095  
Fax: (603) 271-2181  
e-mail: lwoodard@des.state.nh.us

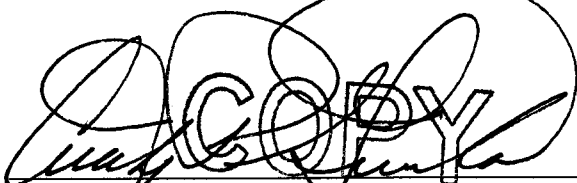
#### **F. APPEAL**

Any person aggrieved by this Order may appeal the Order to the Waste Management Council by filing an appeal that meets the requirements specified in Env-WMC 200 within 30 days of the date of this Order. Copies of the rules are available from the DES Public Information

Center at (603) 271-2975 or at <http://www.des.state.nh.us/desadmin.htm>. Appealing the Order does not automatically relieve Dale Smith of the obligation to comply with the Order.

### G. OTHER PROVISIONS

Please note that RSA 146-C:10 provides for administrative fines and civil penalties, for the violations noted in this Order, as well as for failing to comply with the Order itself. DES will continue to monitor Dale Smith's compliance with applicable requirements and will take appropriate action if additional violations are discovered.

A large, stylized handwritten signature in black ink, appearing to read "COPY" or similar, written over a horizontal line.

Anthony P. Giunta, P.G., Director  
Waste Management Division

A handwritten signature in black ink, appearing to read "Michael P. Nolin", written over a horizontal line.

Michael P. Nolin, Commissioner  
Department of Environmental Services

Certified Mail/RRR: 7000 1670 0000 0586 7911

cc: Gretchen R. Hamel, Legal Unit Administrator /  
Jennifer J. Patterson, Sr. Asst. Attorney General, NHDOJ/EPB  
James Martin, DES Public Information Officer  
Town of Stoddard Health Officer  
Lynn A. Woodard, P.E., WMD UST Supervisor  
Thomas R. Beaulieu, WMD UST Chief